

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN THE MATTER OF:) Case No: B-1180502 C-13D
ERNESTINE ALLEN,)
)
Debtor(s))

)

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee (“Trustee”) and respectfully objects to confirmation of the Debtor’s plan pursuant to 11 U.S.C. §1325 and shows unto the Court the following:

1. The Debtor filed a petition under Title 11 of the United States Code, Chapter 13, on March 25, 2011, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On March 25, 2011, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and the Standing Order entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The plan filed by the Debtor proposes a monthly payment of \$1,251.00 for a period of at least 36 months. Unsecured creditors will not receive any dividend.
5. The Debtor’s plan provides that the claim of Nationwide Advantage (“Nationwide”) representing a first deed of trust on the Debtor’s real property will be paid as a long-term continuing debt pursuant to 11 U.S.C. §1322(b)(5) by disbursements through the Trustee and that any arrearage will be treated as a secured claim and also paid through the Trustee’s office.
6. Nationwide filed a claim secured by the Debtor’s real property and has asserted ongoing monthly payments of \$925.00 and an arrearage through July of 2011 in the amount of \$14,378.26.
7. The Debtor’s plan further provides to pay Home Credit a secured claim in the amount of \$3,707.93 on a 2006 Dodge in monthly installments of \$87.78.

8. The Trustee objects to confirmation of the plan in that the Debtor's proposed plan payments are not sufficient to satisfy the long-term debt of Nationwide, the arrearage claim of Nationwide, the secured claim of Home Credit, and any other secured claims within the 60 month time limitation of 11 U.S.C. §1322(d).

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtor's plan not be confirmed in that the plan does not comply with 11 U.S.C. §1325 and the case be dismissed for cause pursuant to 11 U.S.C. §1307;
2. That, in the alternative, the Debtor's plan payments be increased to \$1,357.00 per month; or
3. For such other and further relief as the Court may deem just or proper.

This the 23rd day of May, 2011.

s/Benjamin E. Lovell

Benjamin E. Lovell
Attorney for the Trustee
State Bar No: 23266
P.O. Box 3613
Durham, N.C. 27702

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, Ernestine Allen, 205 S. Driver St., Durham, NC 27703, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 23rd of May, 2011.

s/Benjamin E. Lovell

Benjamin E. Lovell, Esq.

Attorney for the Standing Trustee